



# MEMORANDUM

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TO: John Iurino  
Zoning Examiner

DATE: March 13, 2019  
For March 28, 2019 Hearing

FROM: Scott Clark  
Planning & Development Services  
Interim Director

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES REPORT  
C9-18-21 Surf Thru Inc. – Old Vail Road  
C-1 and I-2 to I-2 (Ward 4)

**Issue** – This is a request by Rudolf Ing, PE of DOWL on behalf of the property owners, Surf Thru Inc. to rezone approximately 1.38 acres from C-1 and I-2 to I-2 zoning. The rezoning site consists of four parcels, and is located in the interior of Houghton Town Center, a developing regional shopping center, approximately 300 feet south of Old Vail Road and 400 feet west of Houghton Road (see Case Location Map). The preliminary development plan proposes a full service car wash with a drive thru pay station and automated tunnel with a total building area of 4,490 square feet, and a maximum height of 34 feet.

**Planning & Development Services Recommendation** – The Planning & Development Services Department recommends approval of I-2 zoning, subject to the attached preliminary conditions.

## **Background Information**

**Existing Land Use:** vacant, subdivided, undeveloped land

## **Zoning Descriptions:**

C-1: This zone provides for low-intensity, commercial and other uses that are compatible with adjacent residential uses. Residential and other related uses shall be permitted.

I-2: This zone provides for industrial uses that are generally nuisances, making them incompatible with most other land use. These nuisances may be in the form of air pollutants; excessive noise, traffic, glare, or vibration; noxious odors; the use of hazardous materials; or unsightly appearance.

Surrounding Zones and Land Uses:

North: Zoned C-1; Commercial food service

South: Zoned I-2; Open space/trail. natural gas easement, vacant land and commercial uses

East: Zoned I-2; Automotive service

West: Zoned C-1 and I-2; vacant

Previous Cases on the Property: none

Related Cases:

C9-15-05 Brake Masters – Houghton Town Center C-1 to I-2 (Ward 4) This was a request to rezone approximately 0.4 acres from C-1 to I-2 zoning in the interior of Houghton Town Center, just east of the subject rezoning case, near the southwest corner of Houghton Road and Old Vail Road to allow a 5,000 square foot, eight bay automotive service center. Mayor and Council adopted Ordinance No. 11321 on November 17, 2015

C9-12-14 Arizona Auto Spa – Midvale Park Road C-1 to C-2 (Ward 1) This was a request to rezone approximately 0.92 acres at the southeast corner of Midvale Park Road and Irvington Road for a self-service automated car wash facility. The Development Package was approved on November 22, 2013, Mayor and Council adopted Ordinance No. 11137 on December 17, 2013, and a building permit was issued on October 21, 2013 effectuating C-2 zoning.

**Applicant's Request** – Rezoning request to allow a full service automated car wash

**Planning Considerations** – Land use policy direction for this area is provided by the *Esmond Station Area Plan* and *Plan Tucson*. The rezoning site is located within a business center as identified on the Future Growth Scenario Map of *Plan Tucson*. Business centers are major commercial or employment districts that act as major drivers of Tucson's economy. These centers generally contain corporate or multiple-use office, industrial, or retail uses. Within business centers, *Plan Tucson* calls for environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community.

While there is currently no specific mapped land use for the *Esmond Station Area Plan*, commercial policies provide direction for the rezoning. Commercial policy J directs commercial developments to appropriate locations and in appropriate amounts within the area. Policy 2 supports commercial development when compatible with surrounding uses.

The entire shopping center is located within and complies with ADC-3, the Approach Departure Corridor for Davis Monthan Air Force Base, of the Airport Environs Zone (AEZ). The purpose of the AEZ is to protect the health, safety, and welfare of person, property in the vicinity of Tucson International Airport and Davis Monthan Air Force Base, and to protect the long-term viability of Davis Monthan Air Force Base.

The rezoning site is approximately 300 feet south of Old Vail Road and 400 feet west of Houghton Road. Old Vail Road is identified as an arterial street with a 90-foot cross section on the *Major Streets and Routes Plan* map. Houghton Road is a scenic arterial route with a 200-foot cross-section. The intersection of Houghton Road and Old Vail Road has been constructed to *Major Streets and Routes Plan* standards. Field inspection by staff indicates there are no billboards on the site.

The rezoning site consists of Lots 5, 6, and portions of Lots 7 and 8 of Houghton Town Center, an approximately 60-acre developing regional shopping center at the southwest corner of Houghton Road and Old Vail Road. These four parcels are required to be combined with an Assessor's lot combination. Lots 7 and 8 were previously split and then combined for the development of the Brake Masters to the east of the site. Zoning to the south, and east is I-2. Current zoning to the north is C-1, and to the west is C-1 and I-2. The proposed car wash building will be a maximum of 34 feet tall, consistent with development on surrounding parcels within the shopping center.

### **Design Considerations**

**Land Use Compatibility** – The rezoning site is within a currently developing regional shopping center anchored by an existing large retail establishment. Other pads within the shopping center, such as the subject site, have been and will continue to be further developed with automotive service uses, retail uses, restaurants, personal services, office uses, and financial institutions as the center is built-out. Vehicular access to the rezoning site is via the shopping center's internal circulation system. No new roadways or other infrastructure are required. The site was mass-graded at the time the infrastructure was completed and will be landscaped in compliance with Unified Development Code requirements.

**Zoning** – The existing I-2/C-1 zoning line predates development of Houghton Town Center and the subject parcel. Therefore, the zoning line has no relationship to the parcel lines, driveways, drainageways, or any other logical boundary. The minimum zoning required for a full service car wash is C-2. Rezoning the C-1 portion of the development site to C-2 would result in split C-2/I-2 zoning on the site. Rezoning from C-1 and I-2 to C-2 involves a down-zoning and would result in an island of C-2 zoning on the existing I-2/C-1 zoning line. Rezoning the C-1 portion of the site to I-2 is a simple extension of the I-2 zoning that already exists on the south half of the rezoning site. While not the minimum required zoning, staff supports I-2 zoning for the entire site, which will result in the I-2 zoning line moving approximately 230 feet north, as the simplest, most logical solution now, and for future administration of the site. A precedent for this is found in the rezoning of property immediately to the east for an automotive service use (case C9-15-05 in Related Cases).

**Conclusion** – The proposed development is in compliance with the *Esmond Station Area Plan* and *Plan Tucson* and is consistent with anticipated future development within the surrounding shopping center. Subject to compliance with the attached preliminary conditions, approval of the requested I-2 zoning is appropriate.

### PROCEDURAL

1. A development package in general compliance with the preliminary development package and required reports dated 8/18/15, covering the rezoning site is to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

### LAND USE COMPATABILITY

6. A "fair disclosure" statement shall be included as part of any development plans, final plats, information brochures, and sales/rental agreements. The statement shall include that certain types of military air and ground training activity occur at Davis-Monthan Air Force Base and that the subject property is located within the Territory in the Vicinity of a Military Airport in accordance with State law.
7. According to the FAA Notice Criteria Tool, this project is located in proximity to a navigation facility and could impact navigation signal reception. The applicant shall file Form 7460 with the FAA at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> at least 45 days before construction activities begin in order to allow sufficient time to respond to any concerns which are identified by the FAA. Any cranes used which are used must also be identified with Form 7460.

### ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

8. All offsite improvements required with this development, such as street improvements, curb, sidewalk, and ADA ramps shall be coordinated with the City of Tucson's Department of Transportation.

AGREEMENT TO WAIVE ANY CLAIMS  
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between \_\_\_\_\_, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at \_\_\_\_\_, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case C9-18-21 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-18-21.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.



The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-18-21.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Owner:** \_\_\_\_\_

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

**Owner:** \_\_\_\_\_

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

**By:** \_\_\_\_\_

(Signature of Owner or Authorized Representative, if applicable)

**By:** \_\_\_\_\_

(Signature of Owner or Authorized Representative, if applicable)

**Its:** \_\_\_\_\_

(Title of Individual Signing in Representative Capacity)

**Its:** \_\_\_\_\_

(Title of Individual Signing in Representative Capacity)

State of Arizona )  
 )  
County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

\_\_\_\_\_  
Notary Public

My Commission expires:

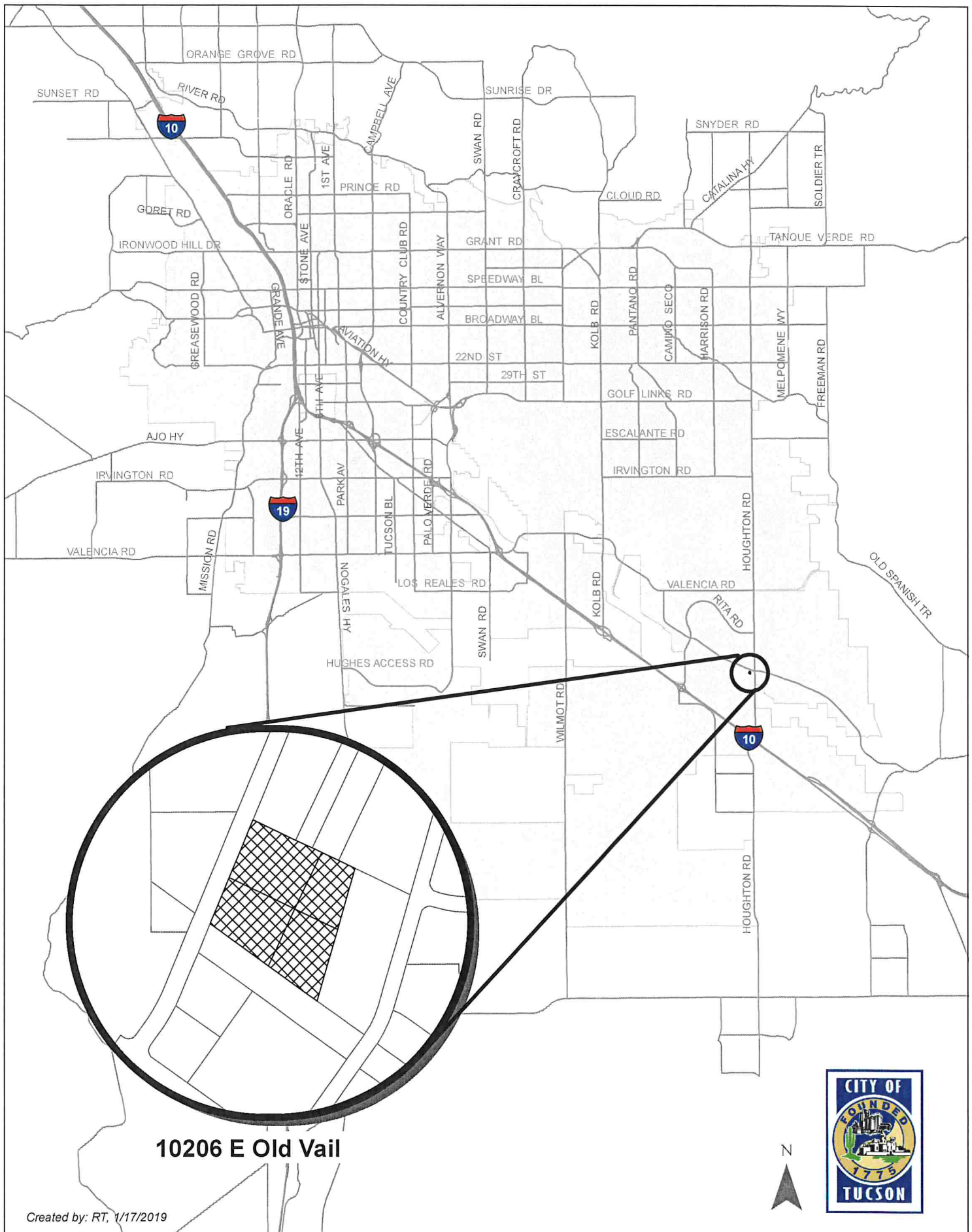
\_\_\_\_\_

City of Tucson, an Arizona municipal Corporation:

By: \_\_\_\_\_  
Planning & Development Services Department

This form has been approved by the City Attorney.

**C9-18-21 Suf-Thru, Inc. - Old Vail Rd**  
**Rezoning Request: From C-1 to I-2**





**C9-18-21 Suf-Thru, Inc. - Old Vail Rd**  
Rezoning Request: From C-1 to I-2



 Rezoning Area

Address: 10206 E Old Vail Rd  
Base Maps: Twp.15S Range15E Sec. 35  
Ward: 4

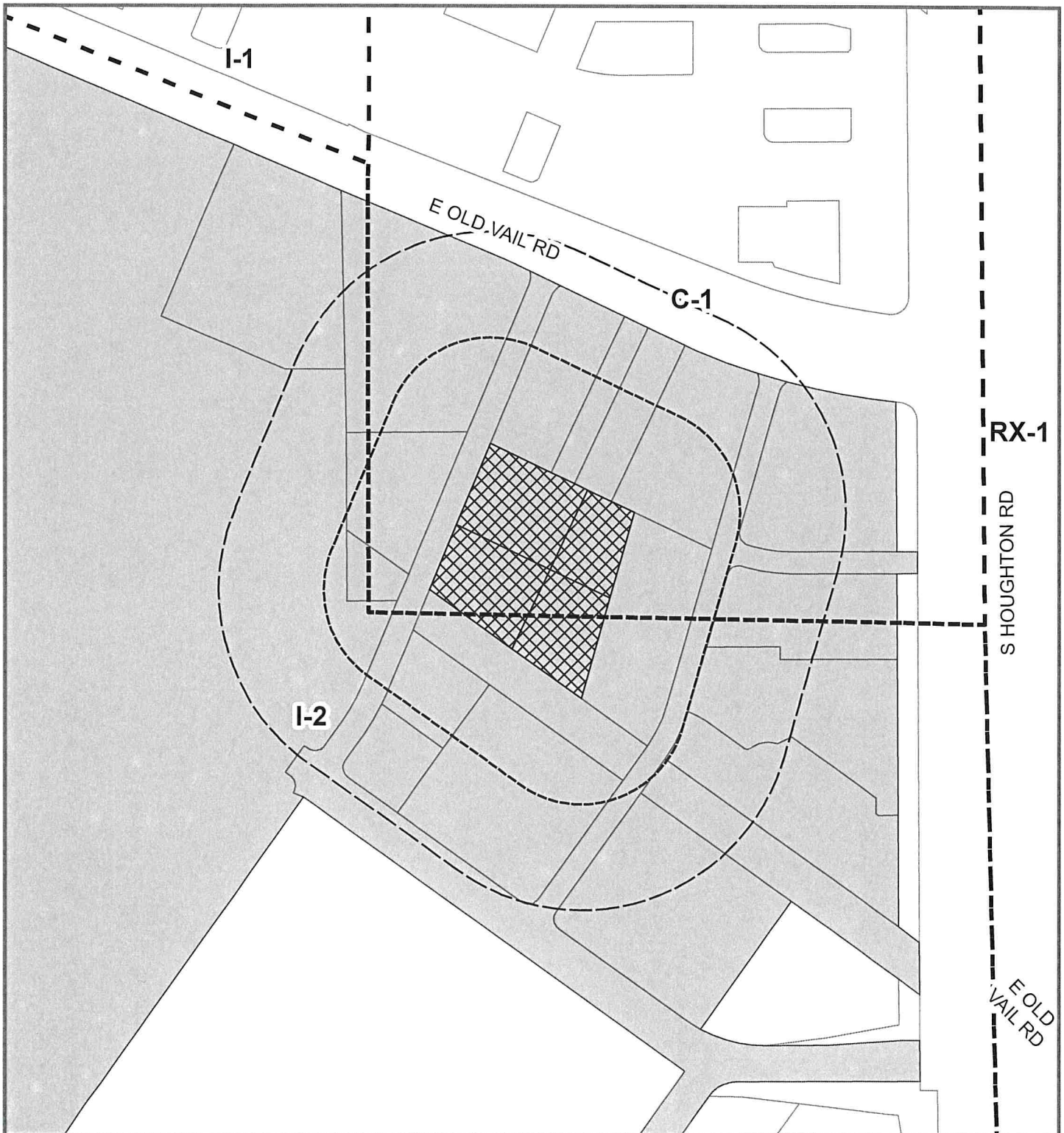


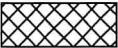

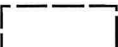

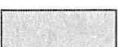
0 100 200 Feet  
1 inch = 200 feet





**C9-18-21 Suf-Thru, Inc. - Old Vail Rd**  
Rezoning Request: From C-1 to I-2



-  Area of Rezoning - C-1 to I-2
-  Protest Area (150 ft. Radius)
-  Notification Area (300 ft. Radius)
-  Zone Boundaries
-  Properties Notified

Address: 10206 E Old Vail Rd  
Base Maps: Twp.15S Range15E Sec. 35  
Ward: 4

0 100 200 Feet  
1 inch = 200 feet





## Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Print your comments below, sign your name, and mail to the City of Tucson Planning and Development Services Department, Entitlements Section, 201 N. Stone Avenue, P.O. Box 27210, Tucson, Arizona 85726-7210. The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner's public hearing. This form is not the City of Tucson Public Hearing Notice.

Protests from 20% of the property owners within 150' of the whole perimeter of the property being rezoned, including BOTH 20% of the property by area and 20% of the number of lots with 150', require an affirmative vote of  $\frac{3}{4}$  of the Mayor and Council (5 of 7 council members) to approve the rezoning or special Exception ordinance. Public rights-of-way and the area/lot of the proposed rezoning are included in the protest calculations. Calculations will be provided to the Mayor and Council.

**Case: C9-18-21 Surf Thru Inc. – Old Vail Road, C-1 and I-2 to I-2 (Ward 4)**

\_\_\_\_\_  
Property Owner(s) (PLEASE PRINT)

- ☐ APPROVE the proposed rezoning/special exception  
☐ PROTEST the proposed rezoning/special exception

**Reason:**

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OWNER(S) SIGNATURES	PLEASE PRINT PROPERTY ADDRESS	PLEASE PRINT YOUR MAILING ADDRESS

Date \_\_\_\_\_

Place  
Stamp  
Here

City of Tucson  
**Planning and Development Services Department**  
Entitlements Section  
201 N. Stone  
P.O. Box 27210  
Tucson, Arizona 85726-7210

C9-18-21

Expose this flap - Affix stamp and return

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City of Tucson PMc  
Planning and Development Services  
Department - Entitlements Section  
201 N. Stone Avenue  
P.O. BOX 27210  
Tucson, Arizona 85726-7210

C9-18-21

IMPORTANT LAND USE CHANGE NOTICE ENCLOSED